



Legislative Research Council

MINUTES Executive Board

Representative Dean Wink, Chair
Senator Corey Brown, Vice Chair
Representative Spencer Hawley, Ranking Minority Member

Fourth Meeting
2015 Interim
June 9, 2015

SD Investment Council Office
4009 West 49th Street, Suite 300
Sioux Falls, South Dakota

The fourth meeting of the Executive Board for the 2015 Interim was called to order by **Representative Dean Wink** at 10:40 a.m. (CDT) in the conference room of the SD Investment Council, Sioux Falls, South Dakota.

A quorum was determined with the following members answering the roll call: Representative Dean Wink, Chair; Representatives Jim Bolin, Brian Gosch, Don Haggar, Spencer Hawley, Roger Hunt, and Timothy Johns; Senators Gary Cammack, Phyllis Heineman, David Omdahl, Scott Parsley, Billie Sutton, and Jim White. Excused: Representative Fred Romkema and Senator Corey Brown.

Staff members present included Jason Hancock, Director; Sue Cichos, Deputy Director; Doug Decker, Code Counsel; Annie Mehlhaff, Chief Analyst for Fiscal; David Ortbahn, Chief Analyst for Research; and Cindy Tryon, Senior Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office.

Approval of Agenda

SENATOR CAMMACK MOVED, SECONDED BY REPRESENTATIVE HAGGAR, TO APPROVE THE AGENDA. The motion prevailed unanimously on a voice vote.

Approval of Minutes

REPRESENTATIVE GOSCH MOVED, SECONDED BY SENATOR HEINEMAN, TO APPROVE THE MINUTES OF THE MAY 18, 2015, EXECUTIVE BOARD MEETING. The motion prevailed unanimously on a voice vote.

LRC Management Reports

Mr. Jason Hancock, Director, updated the Board regarding the employee performance reviews that will be conducted with all LRC staff in the very near future. Director Hancock said that staff have all had online training made available to them and have filled out their half of the forms, and the managers have had additional training regarding the review process that will be used.

Ms. Sue Cichos, Deputy Director, explained that legislative reports and documents found online start with the 1997 legislative session. The staff is in the process of finding the most efficient way to digitize documents preceding 1997, so that they too can be accessed online. Digitizing this information will provide much better public access as well as providing much needed space in the

LRC offices. This project is still in the early research stage and no cost estimates or timelines are available yet.

Ms. Annie Mehlhaff, Chief Analyst for Fiscal Research and Budget Analysis, reported that the Fiscal staff have been monitoring year end spending for the state as a whole and the state should end the year with some reversions. The Legislature should also end the year with some reversions.

Senator Scott Parsley commented that the appropriators have been receiving a lot of information regarding budget transfers. Ms. Mehlhaff explained that this is normal for this time of year. The Executive Branch can legally move money within the line items approved by the Legislature, as long as the agencies stay within certain parameters and report all transfers to the Appropriations Committee.

Mr. David Ortbahn, Chief Analyst for Research and Legal Services, said that the research staff has been busy preparing for the interim study committees, as well as finalizing style and form for several initiated measures. The staff is still working on the prison impact statements for some of these proposed measures. The Attorney General has sixty days from the date of receiving the proposed measures to prepare his statement. The prison impact statement is to be attached to that statement. The organizers have until November 8 to turn in their petitions.

Mr. Ortbahn said that one more proposed constitutional amendment will be submitted to LRC within the next few days. That proposed amendment is regarding victims' rights.

Mr. Doug Decker, Code Counsel, reported that the Code Counsel has several very old books that have bindings which need to be repaired/replaced. They have located a company that will replace the binding of about twenty books with new leather binding. These books are kept in the Code Counsel's office.

Mr. Decker said that the Code Commission will be meeting June 17 during the State Bar Convention and will determine which volumes of the Codified Laws need to be reprinted.

Budget Subcommittee Report

Senator Jim White, Budget Subcommittee Chair, said that the Budget Subcommittee discussed the travel budget and the chambers upgrade projects.

SENATOR WHITE MOVED, SECONDED BY REPRESENTATIVE HAGGAR, THAT THE EXECUTIVE BOARD ALLOCATE THE FY16 NON-SESSION LEGISLATIVE TRAVEL BUDGET, REQUIRED IN HB1145, AS FOLLOWS:

- **32.6 PERCENT, OR \$152,385, OF THE NON-SESSION TRAVEL BUDGET IS ALLOCATED TO THE SENATE;**
- **58.7 PERCENT, OR \$263,513, OF THE NON-SESSION TRAVEL BUDGET IS ALLOCATED TO THE HOUSE OF REPRESENTATIVES; AND**
- **8.7 PERCENT, OR \$18,953, OF THE NON-SESSION TRAVEL BUDGET IS ALLOCATED TO THE LRC TO PAY TRAVEL EXPENSES FOR LEGISLATIVE COMMITTEE PARTICIPANTS WHO ARE NOT MEMBERS OF THE SOUTH DAKOTA LEGISLATURE. The motion prevailed on a roll call vote with 13 voting AYE and 2 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, Sutton, White, and Wink. Those EXCUSED: Romkema and Brown.**

Senator White explained that the travel budget allocation amounts are based on the number of appointments made to committees and the estimated cost per committee meeting. The actual travel

expenditures will vary depending on the rate of member participation; the number of committee meetings; and the times and location of each meeting. These allocation amounts may be adjusted as necessary by a vote of the Executive Board.

Representative Don Haggar, Vice Chair of the Budget Subcommittee, pointed out that if there is 100% participation the expenses would far exceed the allocation, but there has never been 100% participation in the past.

Director Hancock added that the allocation is based on 73% participation. The allocation can be adjusted by the Executive Board if this estimated participation rate is too low.

Ms. Mehlhaff explained the travel allocations and how they were determined. In-state travel allocations include the \$129 daily interim salary and the out-of-state cost estimates do not, as the salary is not paid on out-of-state trips. The out-of-state allocation assumes that all trips are funded through the LRC, but that is not always the case. A few organizations do pay travel expenses depending on the purpose of the meeting. All legislators are encouraged to use those funding opportunities.

Ms. Mehlhaff said that 100% participation in the Legislative Committee meetings is funded in the budget. However, no funding is included for the additional committees, boards, task forces, and blue ribbon panels established by the Executive Branch and the Judicial Branch.

Representative Brian Gosch wondered why the travel expenses for the non-legislative meetings come out of LRC's budget rather than the host agencies' budgets. Senator White explained that the Speaker of the House and the Senate President Pro Tem have to approve participation in these additional meetings in order for LRC to reimburse the travel expense. It is anticipated that host agencies will pay committee member expenses.

Representative Wink added that the LRC does pay the \$129 daily salary for participation in these approved in-state meetings. Senator White said that non-legislative meeting travel expenses are over \$59,000. He added that new studies and task forces continue to be developed which are not included in the LRC budget and that could get expensive for LRC.

Senator Gary Cammack asked who is responsible for making sure the right agency pays the travel expenses for the non-legislative meetings. Ms. Mehlhaff explained that LRC often does not even know that a meeting was held or who attended until the travel vouchers are submitted. Most of the other agencies do not contact LRC about the meetings and LRC has to rely on the participating legislators passing on that information to the LRC.

Representative Spencer Hawley said that the Board had at one time discussed having the LRC pay the expenses if the Speaker and President Pro Tem make the appointments, and if the Executive Branch or the Judicial Branch makes the appointments then they pay the travel expenses. Director Hancock reminded the Board that that policy was offered as an option but was not selected. The adopted policy states that the Speaker and President Pro Tem make the determination regarding travel reimbursement.

Representative Roger Hunt read the policy change that was approved at the May Executive Board meeting, *"Effective from May 18, 2015, the Speaker of the House of Representatives or the President Pro Tempore of the Senate may approve salary and travel expense payment for Representatives and Senators, respectively, who attend meetings pertaining to the business of the legislature, or who serve on non-legislative Boards/Commissions/Task Forces, provided that the appointment was made or approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate. Approved costs shall be limited to the*

amounts allocated by the Executive Board for out-of-state and interim in-state travel by Representatives and Senators.”

Representative Hunt pointed out that the word “may” does give the Speaker and the President Pro Tem flexibility when making these decisions.

Representative Gosch asked how the total allocated budget amount for FY16 non-session travel of \$434,851 compares with the amount budgeted in past years.

Ms. Mehlhaff reported the amounts expended in previous years. Representative Hagggar pointed out that in previous years, travel expenses did not exceed the amount allocated.

Representative Gosch said this historic perspective demonstrates that this is an appropriate amount and there should be enough in the LRC budget. Representative Gosch asked Director Hancock to contact the other branches of government regarding non-legislative meeting expenses and who should provide legislator reimbursement for those expenses.

Representative Wink asked the Budget Subcommittee to continue gathering information regarding who will be responsible for paying travel expenses to non-legislative meetings. Representative Wink said that the Board needs to revisit the travel policy and make sure that all members understand that policy. Senator White responded that the subcommittee will continue that work as it is important to make sure all members receive reimbursement for travel to these meetings.

Senator White continued the Budget Subcommittee report updating the members on the chambers' upgrade and other funding needs for LRC.

Investment Council Subcommittee Report

Representative Gosch, Subcommittee Chair, reported that they had received applications from highly qualified individuals and had conducted interviews with three people to fill the one vacancy on the Investment Council (**Document #1**). The Investment Council Subcommittee recommended selecting Ms. Laura McNally of Belle Fourche, as the new Investment Council member.

REPRESENTATIVE GOSCH MOVED, SECONDED BY REPRESENTATIVE HAGGAR TO APPOINT MS. LAURA McNALLY TO THE SOUTH DAKOTA INVESTMENT COUNCIL. The motion prevailed on a roll call vote with 13 voting AYE and 2 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, Sutton, White, and Wink. Those EXCUSED: Romkema and Brown.

Senator Parsley asked about the policy that no more than four appointed members to the Investment Council be from the same political party. Representative Gosch explained that with the appointment of Ms. McNally there will be four republicans and one democrat appointed to the Council. The other members are ex officio and their party affiliation does not affect that policy.

Representative Gosch introduced **Mr. Jon Hunter, Investment Council Chair; and Mr. Matt Clark, Investment Council Executive Director**. Mr. Clark distributed the document *“Investment Council Update” (Document #2)*.

Mr. Clark reported that the returns for the past two years ran about 19%, but for FY15 the returns will be about 4.5%. It will be difficult to see positive numbers in regard to the returns for the next several years. In fact, it is time to take the money off the table and be happy with zero gain for a while. By doing that, the state will not lose money when the markets fall and will have money to take advantage of the next round of opportunities whenever they arise.

Executive Board Appointments

Representative Wink explained that with Senator Rave's resignation from the Senate, there is one vacancy for an alternate on the Streamlined Sales and Use Tax Compact (**Document #3**).

SENATOR WHITE MOVED, SECONDED BY REPRESENTATIVE GOSCH, TO APPOINT SENATOR GARY CAMMACK AS THE ALTERNATE ON THE STREAMLINED SALES AND USE TAX COMPACT. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, White, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

There are two vacancies on the Midwestern Higher Education Compact (MHEC), one is a full member and one is an alternate member (**Document #4**). Also, Senator Tidemann and Representative Dryden need to be reappointed to their seats, if the Board so wishes.

REPRESENTATIVE HAWLEY MOVED, SECONDED BY SENATOR PARSLEY, TO APPOINT REPRESENTATIVE JULIE BARTLING TO THE MHEC AS A FULL MEMBER. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, White, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

REPRESENTATIVE HAGGAR MOVED, SECONDED BY REPRESENTATIVE GOSCH, TO REAPPOINT SENATOR TIDEMANN AS A FULL MEMBER AND REPRESENTATIVE DRYDEN AS AN ALTERNATE TO MHEC. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, White, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

The Board agreed to leave the second alternate vacant at this time.

Representative Wink said that there are two terms expiring on the Commission on Uniform Legislation (aka Uniform Laws Commission) (**Document #5**). Representative Wink said that Representative Tim Johns and Representative Mark Mickelson had both expressed interest in serving on the Commission. Representative Wink invited each of them to share their reasons as to why they would be interested in serving on the Commission and they did so.

Representative Jim Bolin asked for more information regarding the Commission on Uniform Legislation. Representative Gosch serves on the Commission and he explained that they meet annually and discuss possible legislation that could be considered in several states in the near future. They then assign members to drafting committees and those committees meet several times to write legislation. Every word of these draft bills is gone through by the full Commission to make sure the best possible drafts are available to all the states.

Former Representative Marc Feinstein's appointment to the Commission is one that is expiring and Mr. Feinstein introduced himself to the Board and explained why he would like to be reappointed to the Commission.

Mr. Doug Decker also said that Mr. Mike DeMersseman has served on the Commission since 1997 and he, too, would like to be reappointed but was unable to attend today's Executive Board meeting. Representative Gosch pointed out that if Mr. DeMersseman is reappointed, he will become a lifetime member of the Commission in two years, and the Executive Board will be able to appoint another new member when this term expires.

SENATOR PARSLEY MOVED, SECONDED BY REPRESENTATIVE HAWLEY, TO REAPPOINT MR. MARC FEINSTEIN TO THE COMMISSION ON UNIFORM LEGISLATION. The motion prevailed on a roll call vote with 6 voting AYE; 4 voting NAY; 1 PASS; and 4 EXCUSED. Those voting AYE: Bolin, Haggar, Hawley, Cammack, Parsley, and White. Those voting NAY: Hunt, Heineman, Omdahl, Wink. Those PASSING: Johns. Those EXCUSED: Gosch, Romkema, Sutton, and Brown.

Representative Timothy Johns asked that his name be withdrawn from consideration.

REPRESENTATIVE JOHNS MOVED, SECONDED BY REPRESENTATIVE GOSCH, TO REAPPOINT MR. MIKE DEMERSSEMAN TO THE COMMISSION ON UNIFORM LEGISLATION. The motion prevailed on a roll call vote with 8 voting AYE; 4 voting NAY; and 3 EXCUSED. Those voting AYE: Gosch, Haggar, Hawley, Johns, Cammack, Omdahl, Parsley, and White. Those voting NAY: Bolin, Hunt, Heineman, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

Technology Subcommittee Report

Senator Phyllis Heineman, Chair of the Technology Subcommittee, said that the work being done to develop our independent IT system is in response to NCSL's recommendation that to strengthen the Legislative Branch of government, the Legislature must create more independence from the Executive Branch.

Senator Heineman said that the subcommittee had talked to Mr. Brian DeBolt, LRC's Computer Network Administrator, about the progress that has been made. The equipment has been ordered and should arrive in 30 days. Also, Midcontinent Communications has offered a quote to provide the internet access, and SDN and AT&T will be submitting quotes very soon. Several factors will be considered before making a final decision.

A contract with SDN to provide the firewall system is done and awaiting Director Hancock's signature.

Senator Heineman remarked that she is disappointed in the lack of responsiveness from the Bureau of Information (BIT) and that she and Representative Wink would like to sit down with the Commissioner of BIT and ask for his cooperation. It is important that everyone understand that the move towards IT independence is not a reflection on the service provided by BIT, but is a matter of separation of powers.

Representative Wink said that Mr. DeBolt had surveyed legislatures in several states and discovered that of the 15 states that responded to the survey, 14 have separate IT systems from the Executive Branch.

Mr. Hancock reported that there have been delays in getting bids on providing internet service, and other project components such as the transfer of data to our system could also see delays. Those two factors will most likely push back the timeline for implementation and it may have to wait until after the 2016 Legislative Session.

Interim Study Committees

Interim Committees Membership Assignments

Senator White reported on the Ad Hoc Subcommittee on Assignments' recommendations for members to serve on the two interim study committees:

- Proposed membership for the SDHSAA Interim Study are Senator Craig Tieszen, Chair; Representative Jim Bolin, Vice-Chair; and Senators Tidemann, Van Gerpen, and Bradford; and Representatives Rozum, Schoenfish, Rounds, Hunt, Langer and Bartling.
- Proposed membership for the County Government Interim Study are Representative Kristen Conzet, Chair; Senator Bob Ewing, Vice-Chair; Senators Haggar, Vehle, and Peterson; and Representatives Duvall, Heinemann, Klumb, May, Schaefer, and Feickert.

REPRESENTATIVE JOHNS MOVED, SECONDED BY SENATOR HEINEMAN, TO ADOPT THE RECOMMENDATIONS OF THE AD HOC SUBCOMMITTEE ON ASSIGNMENTS.

Representative Hunt questioned the recommended membership to the SDHSAA Study, saying that the House membership does not reflect the vote of a certain piece of legislation that was debated this past session and suggested adding additional members to the committee.

Representative Wink said that the interim study committee will take a much broader look at SDHSAA than just one issue. Senator White added that the recommendation for this interim study did not specify any one agenda item. Senator White said that several factors were considered when selecting the committees and adding members now would skew the membership.

Representative Gosch said that anyone wanting to be on a study committee should be allowed to serve. Representative Wink pointed out that the budget was approved earlier in the Board meeting and that budget was based on each interim committee consisting of eleven members.

REPRESENTATIVE HAGGAR MOVED, SECONDED BY SENATOR OMDAHL, TO AMEND THE MOTION AND ADD THREE ADDITIONAL MEMBERS TO THE SDHSAA INTERIM STUDY. THOSE MEMBERS ARE REPRESENTATIVE HAUGAARD, REPRESENTATIVE ZIKMUND, AND SENATOR GREENFIELD. The motion failed on a roll call vote with 6 voting AYE; 6 voting NAY; and 3 EXCUSED. Those voting AYE: Bolin, Gosch, Haggar, Hunt, Heineman, and Omdahl. Those voting NAY: Hawley, Johns, Cammack, Parsley, White, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

The Board voted on the previous motion.

REPRESENTATIVE JOHNS MOVED, SECONDED BY SENATOR HEINEMAN, TO ADOPT THE RECOMMENDATIONS OF THE AD HOC SUBCOMMITTEE ON ASSIGNMENTS. The motion prevailed on a roll call vote with 7 voting AYE; 5 voting NAY; and 3 EXCUSED. Those voting AYE: Bolin, Hawley, Johns, Cammack, Parsley, White, and Wink. Those voting NAY: Gosch, Haggar, Hunt, Heineman, and Omdahl. Those EXCUSED: Romkema, Sutton, and Brown.

Review the Scope of the County Government Study

Director Hancock distributed a copy of the results from the survey that was conducted of the Executive Board members regarding narrowing the scope of the county government study (**Document #6**). Twelve members responded to the survey and the top vote getter was "**B. Study**

expenditures for law enforcement, legal fees for court appointed attorneys and prosecutors, court costs, and county jails and evaluate the trends on expenditures and whether the cost should or may be transferred to another entity.” Coming in second was “E. Evaluate the fiscal impact on counties that have significant areas of property owned by the federal government or placed in trust.” And the third choice was “G. Review the organization of the counties and cooperation between the counties and other local governments.”

Senator Heineman said that there was a newspaper article that pointed out the fact that many of these county government entities are over a century old and some of their policies and practices have not changed since inception. Senator Heineman suggested breaking the study into three areas: Historical perspective; current challenges and future solutions; and extraordinary circumstances including federal implications.

Representative Hawley added that it is obvious the committee needs to study option B, but option “F. Review other responsibilities given to counties to administer: correction facilities, public infrastructure, document recording, registration and elections” should be a part of that.

Representative Hunt thought that option “C. Review sources of funding available to counties including taxes and fees and determine whether the fees should be updated or revised” should become part of the scope because that exchange of information would be helpful to the counties. Representative Hunt added that all of these issues are important but source of funding should definitely be part of the scope.

Representative Johns pointed out that options B and F were the two major issues the Association of County Governments was interested in and the study should be limited to those two options.

The Board agreed that the members of the interim study committee can look at all the options and read the comments in the Executive Board minutes and then narrow the scope as a committee.

Executive Session

REPRESENTATIVE GOSCH MOVED, SECONDED BY SENATOR CAMMACK, THAT THE EXECUTIVE BOARD GO INTO EXECUTIVE SESSION TO DISCUSS ITEMS RELATING TO PERSONNEL. The motion prevailed on a roll call vote. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, White, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

The Executive Board went into Executive Session at 2:20 p.m.

REPRESENTATIVE BOLIN MOVED, SECONDED BY SENATOR OMDAHL, TO COME OUT OF EXECUTIVE SESSION. The motion prevailed on a voice vote.

The Executive Board came out of Executive Session at 3:10 p.m.

SENATOR CAMMACK MOVED, SECONDED BY REPRESENTATIVE GOSCH, TO MOVE THE BASE SALARY OF JASON HANCOCK, DIRECTOR OF THE LRC, BY 3%; THE BASE SALARY OF MATT CLARK, INVESTMENT COUNCIL EXECUTIVE DIRECTOR, BY 3.8%; THE BASE SALARY OF MARTY GUINDON, AUDITOR GENERAL, BY 2% PLUS 3%. The motion prevailed on a roll call vote with 12 voting AYE and 3 EXCUSED. Those voting AYE: Bolin, Gosch, Hagggar, Hawley, Hunt, Johns, Cammack, Heineman, Omdahl, Parsley, White, and Wink. Those EXCUSED: Romkema, Sutton, and Brown.

Adjourn

REPRESENTATIVE GOSCH MOVED, SECONDED BY REPRESENTATIVE JOHNS, THAT THE EXECUTIVE BOARD BE ADJOURNED. The motion prevailed unanimously on a voice vote.

The Board adjourned at 3:15 p.m.

All committee agendas and minutes are available on the LRC website: <http://legis.sd.gov/>. You may subscribe to electronic delivery of agendas and minutes at E-Subscribe on the LRC website.